

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE UNITED STATES OF AMERICA, for the use and
benefit of INFRA-METALS CO.,

Case No.: 1:24-CV-06933

Plaintiff,

-against-

CORNERSTONE CONTRACTING, INC., INNOVATIVE
SUPPORT SOLUTIONS, INC., FEINSTEIN IRON
WORKS, INC., WESTERN SURETY COMPANY and
JOHN DOE, defendant being unknown to Plaintiff and
having issued a Miller Act Payment Bond Relative to the
Project at issue in the Complaint,

ANSWER TO
CROSS-CLAIMS

Defendants.

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Defendant, FEINSTEIN IRON WORKS, INC., through its attorneys, RICHARD A. KRASLOW, P.C., as and for its Answer to the Cross-Claims of Defendant, CORNERSTONE CONTRACTING, INC., sets forth and alleges, upon information and belief, as follows:

ANSWERING DEFENDANT'S FIRST CROSS-CLAIM

1. Defendant, FEINSTEIN IRON WORKS, INC., denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "17" of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC., except to the extent it contains conclusions of law, not allegations of fact, to which no response is required.

2. Defendant, FEINSTEIN IRON WORKS, INC., denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "19" of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

3. Defendant, FEINSTEIN IRON WORKS, INC., denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “20” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

4. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “21” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

5. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “22” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

6. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “23” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

7. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “24” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

ANSWERING DEFENDANT’S SECOND CROSS-CLAIM

8. Defendant, FEINSTEIN IRON WORKS, INC., repeats and realleges each and every allegation contained in paragraphs “1” through “7” as if same were more fully set forth herein.

9. Defendant, FEINSTEIN IRON WORKS, INC., denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “26” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC., except to the extent it contains conclusions of law, not allegations of fact, to which no response is

required. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “26” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC., to the extent that such allegations relate to the conduct of Defendant, FEINSTEIN IRON WORKS, INC.

10. Defendant, FEINSTEIN IRON WORKS, INC., denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “27” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC., except to the extent it contains conclusions of law, not allegations of fact, to which no response is required. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “27” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC., to the extent that such allegations relate to the conduct of Defendant, FEINSTEIN IRON WORKS, INC.

11. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “28” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

12. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “29” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

13. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “30” of the Cross-Claim of Defendant, CORNERSTONE CONTRACTING, INC.

14. Defendant, FEINSTEIN IRON WORKS, INC., denies each and every allegation contained in paragraph “31” of the Cross-Claim of Defendant, CORNERSTONE

CORTRACTING, INC.

AS AND FOR DEFENDANT'S FIRST AFFIRMATIVE DEFENSE

15. Defendant, FEINSTEIN IRON WORKS, INC., states that Defendant, CORNERSTONE CONTRACTING, INC.'S, claims are barred due to failure to state a recognizable cause of action.

AS AND FOR DEFENDANT'S SECOND AFFIRMATIVE DEFENSE

16. Defendant, FEINSTEIN IRON WORKS, INC., states that Defendant, CORNERSTONE CONTRACTING, INC.'S, causes of action and claims are barred as a result of failure of conditions precedent. As such, Defendant, CORNERSTONE CONTRACTING, INC.'S, claims fail as a matter of law.

AS AND FOR DEFENDANT'S THIRD AFFIRMATIVE DEFENSE

17. Defendant, FEINSTEIN IRON WORKS, INC., states that Defendant, CORNERSTONE CONTRACTING, INC.'S, causes of action and claims are barred as a result of unclean hands of Defendant, CORNERSTONE CONTRACTING, INC.

AS AND FOR DEFENDANT'S FOURTH AFFIRMATIVE DEFENSE

18. Defendant, FEINSTEIN IRON WORKS, INC., states that Defendant, CORNERSTONE CONTRACTING, INC., causes of action and claims for breach of contract fail in that Defendant, CORNERSTONE CONTRACTING, INC., fails to allege (i) the formation of a contract between Defendant, CORNERSTONE CONTRACTING, INC., and Defendant, FEINSTEIN IRON WORKS, INC., (ii) performance by Defendant, CORNERSTONE CONTRACTING, INC., (iii) Defendant, FEINSTEIN IRON WORKS, INC.'S, failure to perform, and/or (iv) resulting damage.

AS AND FOR DEFENDANT'S FIFTH AFFIRMATIVE DEFENSE

19. Defendant, FEINSTEIN IRON WORKS, INC., states that Defendant, CORNERSTONE CONTRACTING, INC.'S, causes of action and claims are barred by Defendant, CORNERSTONE CONTRACTING INC.'S, prior breach of the Master Subcontract Agreement and/or Project Specific Subcontract Agreement.

AS AND FOR DEFENDANT'S SIXTH AFFIRMATIVE DEFENSE

20. Defendant, FEINSTEIN IRON WORKS, INC., states that Defendant, CORNERSTONE CONTRACTING, INC.'S, causes of action and claims are barred by Defendant, CORNERSTONE CONTRACTING, INC.'S, repudiation of its obligations under the Master Subcontract Agreement and/or Project Specific Subcontract Agreement.

AS AND FOR DEFENDANT'S SEVENTH AFFIRMATIVE DEFENSE

21. Defendant, FEINSTEIN IRON WORKS, INC., states that Defendant, CORNERSTONE CONTRACTING, INC.'S, causes of action and claims are barred by the statute of frauds.

AS AND FOR DEFENDANT'S EIGHTH AFFIRMATIVE DEFENSE

22. Defendant, FEINSTEIN IRON WORKS, INC., states that Defendant, CORNERSTONE CONTRACTING, INC.'S, causes of action and claims are barred by failure of consideration.

DEFENSES RESERVED

23. Defendant, FEINSTEIN IRON WORKS, INC., gives notice that it intends to rely upon any other defenses that may become available and/or apparent during the course of discovery in this matter, and hereby reserves its right to amend its reply and to assert any such other defense. Defendant, FEINSTEIN IRON WORKS, INC., also reserve its right to assert

any other related defenses which may become available and/or apparent in the event of a judicial determination that this action, or any part thereof, is governed by the substantive laws of a state other than the State of New York.

WHEREFORE, Defendant, FEINSTEIN IRON WORKS, INC., demands judgment dismissing the Cross-Claims of Defendant, CORNERSTONE CONTRACTING, INC., in their entirety, and granting Defendant, FEINSTEIN IRON WORKS, INC., such other and further relief as the Court may deem just and proper.

Dated: Melville, New York
November 21, 2024

Yours, etc.

RICHARD A. KRASLOW, P.C.

/s/Richard A. Kraslow

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CERTIFICATE OF SERVICE

I, Richard A. Kraslow, hereby certify that the foregoing Answer to Cross-Claims, was sent via ECF and electronic mail on the 21st day of November, 2024, upon the following counsel of record:

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